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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,956

04/02/2004

Jonathan Michael Freidman

GFR046US-C

8913

7590

10/17/2006

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EXAMINER

ALHIJA, SAIF A

ART UNIT

PAPER NUMBER

2128

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,956	<b>Applicant(s)</b> FREIDMAN ET AL.	
	<b>Examiner</b> Saif A. Alhija	<b>Art Unit</b> 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 81-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 81-91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 81-91 have been presented for examination.

**PRIORITY**

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

**Drawings**

3. Figure 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Double Patenting**

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In*

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*re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 81-91 are rejected** on the ground of nonstatutory double patenting over claims 1-87 of U. S. Patent No. 6,360,188 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A computer-implemented planning system utilizing a GUI, time-based properties, as well as result calculations.

**Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**MPEP 2106 recites:**

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result" State Street 149 F.3d at 1373, 47 USPQ2d at 1601-02. A process that consists solely of the manipulation of an abstract idea is not concrete or tangibles. See *In re*

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Warmerdam, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed.Cir. 1994). See also Schrader, 22 F.3d at 295, 30 USPQ2d at 1459.

5. **Claims 81-91 are rejected** under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

i) Claims 89 and 91 recite a carrier medium. Since a carrier medium can encompass an electrical signal the claims are non-statutory. Electrical signals are not considered statutory. (See Page 11 of the Specification of the Instant Application. See also reference number 26, which is a connection that could be a carrier wave.)

ii) Claims 89-91 recite a series of definitions. The claims as such do not appear to produce a useful, concrete, and tangible result.

iii) Claim 88 recites a computer implemented planning system but is dependent upon claim 90 that recites a carrier medium. The claim mixes statutory classes and as such is non-statutory.

iv) The claims recites a computer program. It should be noted that code (i.e., a computer software program) does not do anything per se. Instead, it is the code stored on a computer that, *when executed*, instructs the computer to perform various functions. The following claim is a generic example of a proper computer program product claim;

A computer program product embodied on a computer-readable medium and comprising code that, when executed, causes a computer to perform the following:

Function A  
Function B  
Function C, etc...

All claims dependent upon a rejected base claim are rejected by virtue of their dependency.

**Claim Rejections - 35 USC § 112**

**The following is a quotation of the first paragraph of 35 U.S.C. 112:**

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. **Claims 89-91 are rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification is not enabled for a carrier wave that is capable of storage. A carrier wave is a transmission medium and is not enabled for the storage of the system as disclosed.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 81-91 are rejected** under 35 U.S.C. 102(b) as being clearly anticipated by **Smith et al. “Integrating Electrical and Mechanical Design and Process Planning”, hereafter referred to as Smith.**

8. **Claims 81-91 are rejected** under 35 U.S.C. 102(b) as being clearly anticipated by **Petrie “The Redux Server”, hereafter referred to as Petrie.**

**Regarding Claim 81:**

**The references disclose** A computer-implemented planning system comprising:

a graphical user interface mechanism configured to display a timeframe on a computer display medium, said graphical user interface mechanism being further configured selectively to display, under user control, a representation of a plurality of selectable object types, said object types define a type of planning entity and at least a selected one of said object types includes definitions of time-related properties;

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

a representation of a selectable instance of at least one of said object types for said planning entity, said representation displayed with respect to said timeframe representing time-related properties for said object type;

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

a calculating engine included in said selected one of said object types for defining the functionality of said planning entity, said calculating engine operable to perform time-related operations in response to property values for said time-related properties and deriving an output comprising a time-series of output values;

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

a result mechanism for deriving at least one result value based on said time-series of output values derived by said calculating engine; and

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

a control mechanism for defining a hierarchy of said results in response to user input, said user input includes specifications of property values for said time-related properties.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 82:**

**The references disclose** The computer-implemented planning system of claim 81, wherein said calculating engine of said selected object type is configured to perform calculations on at least one property value of that object type.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 83:**



**The references disclose** The computer-implemented planning system of claim 81, wherein said calculating engine of said selected object type is configured to perform calculations on at least one property value of another object type.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 84:**

**The references disclose** The computer-implemented planning system of claim 81, wherein said selected object type is configured to include a property value in the form of at least one user definable link to another object type.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 85:**

**The references disclose** The computer-implemented planning system of claim 81, wherein a plurality of said selectable object types are associated with a planning entity, each object type performing time-related operations and deriving an output comprising a time-series of output values.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

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**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3.**

**Figure 6)**

**Regarding Claim 86:**

**The references disclose** The computer-implemented planning system of claim 81, wherein said display of said selectable instance of said object types with respect to said timeframe represents at least an adjustable lifespan having a start time and an end time for said object types.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3.**

**Figure 6)**

**Regarding Claim 87:**

**The references disclose** The computer-implemented planning system of claim 81, wherein said display of said selectable instance of said object types with respect to said timeframe further represents at least one calculation datum point corresponding to said calculating engine operable to perform said time-related operations for said output comprising said time-series of output values.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3.**

**Figure 6)**

**Regarding Claim 88:**

**The references disclose** The computer-implemented planning system of claim 90, wherein said calculating engine is responsive to changes in positioning of said displayed instance of said object types to change calculation timings for output values of said time-series of output values.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 89:**

**The references disclose** A carrier medium carrying an object definition for a computer-implemented planning system, said object definition comprises:

a definition of the functionality of a planning entity;

a definition of a time-dependent property; and

a definition of time-dependent operations configured to respond to input property values for said time-dependent properties to produce a time-series of output values.

**(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)**

**(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)**

**Regarding Claim 90:**

**The references disclose** The carrier medium of claim 89, wherein said carrier medium is a computer readable storage medium.

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(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)

(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)

**Regarding Claim 91:**

The references disclose The Carrier medium of claim 89, wherein said carrier medium is a telecommunications medium.

(Smith. Page 1, Abstract. Page 2-3, Section 1, Motivation. Page 14, Process Planner. Figures 1, 5, and 7)

(Petrie. Page 134, Abstract. Page 137, Section 2.4. Page 139-140, Section 3.1. Page 142. Section 3.3. Figure 6)

**Conclusion**

9. All Claims are rejected.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saif A. Alhija whose telephone number is (571) 272-8635. The examiner can normally be reached on M-F, 11:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571) 272-2279. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAA

October 11, 2006

A handwritten signature in black ink, appearing to read "R. H. Jones", is located in the bottom right corner of the page.